

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NORTH DAKOTA  
NORTHWESTERN DIVISION**

Robert Heilman,	)	
	)	
Plaintiff,	)	
	)	<b>ORDER ADOPTING</b>
vs.	)	<b>REPORT AND RECOMMENDATION</b>
	)	
Jo Anne B. Barnhart, Commissioner,	)	Case No. 4:05-cv-089
Social Security Administration,	)	
	)	
Defendant.	)	

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The above-entitled action was referred to Magistrate Judge Charles S. Miller, Jr., for the issuance of a Report and Recommendation. Magistrate Judge Miller issued his Report and Recommendation on February 10, 2006, wherein he concluded that Defendant's Motion for Summary Judgment be granted and the Plaintiff's Motion for Summary Judgment be denied. Judge Miller concluded that the ALJ was correct in finding that Heilman was engaged in substantial gainful employment during the relevant period.

On February 16, 2006, the plaintiff, Robert Heilman, filed an objection. See Docket No. 10. Heilman presented additional information about his medical condition. As set forth in the Report and Recommendation, a five-step sequential evaluation is used to determine eligibility for disability benefits. If an individual is found to have engaged in substantially gainful employment during the relevant period, the evaluation ends. In such circumstances, an applicant's physical or mental impairments are not considered. Thus, because Heilman has been gainfully employed during the relevant period, evidence of Heilman's physical condition is not considered.

The Court has carefully reviewed the record, the Report and Recommendation, and Heilman's objections, and finds that Magistrate Judge Miller's Report and Recommendation is thorough and persuasive. Accordingly, the Court **ADOPTS** the Report and Recommendation

(Docket No. 9). The Defendant's Motion for Summary Judgment (Docket No. 8) is **GRANTED** and the Plaintiff's Motion for Summary Judgment (Docket No. 7) is **DENIED**.

The Clerk of Court is directed to enter judgment accordingly.

**IT IS SO ORDERED.**

Dated this 28th day of February, 2006.

A handwritten signature in black ink, appearing to read "Dan Hovland", written in a cursive style.

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Daniel L. Hovland, Chief Judge  
United States District Court